

CENTRAL VALLEY FLOOD PROTECTION BOARD
FEBRUARY 26, 2009

CONSENT ITEM 8D
PROPERTY MANAGEMENT – Lease No. 2009-02

SUBJECT:

Agricultural lease to Schreiner Farms, Inc.

LOCATION:

Sutter County. Approximately 143.5 acres located along the east and west lines of Reclamation Road and the north line of the Tisdale Bypass. Sutter County Assessor's parcel numbers: 21-280-007, 21-289-003, and 21-280-010.

REQUEST:

- Staff requests a consent vote to approve the enclosed lease and authorize the President and Secretary of the Board to sign the lease.

BACKGROUND:

In 2007-2008 the Department of Water Resources completed the Tisdale Bypass Channel Rehabilitation Project. A spoil site was purchased from the Tomlinson family to place the dredge material from the Channel. The spoil site was being leased by Schreiner Farms for agriculture purposes. As a condition of sale of the spoil site by the Tomlinson's, and agreed to by DWR, was besides paying the current lessee damages, the current lessee (Schreiner Farms) would be given the option to continue to lease the property for agricultural purposes. This lease presented is the result of that agreement.

The lease terms have been negotiated with the Schreiner family, however, unfortunately, the signed copy of the lease was not obtained prior to the release of the Board packet. Attached is a copy of the unsigned lease, as negotiated. If there are any changes to this lease, Staff will request that this item be removed from the Consent Calendar so that any changes that have been negotiated may be explained.

Staff recommends acceptance of this lease and approval for the President and Secretary to sign the lease.

ATTACHMENTS:

Lease

Map of area – not available at Board packet printing and lease area map will be available at the Board meeting.

Field Division: Delta Field Division
Project: Tisdale Bypass Channel
Rehabilitation
Maint. Yard: Sacramento
Lease No.: 09-02
Cost Object: FGP09PM00120

State of California
California Natural Resources Agency
CENTRAL VALLEY FLOOD PROTECTION BOARD

LEASE

This Lease consists of this summary and the following attached and incorporated parts:

- Section 1 Basic Provisions
- Section 2 Special Provisions Amending or Supplementing Section 1 or 3
- Section 3 Standard Provisions
- Section 4 Legal Description and/or map(s) of Lease Premises

SECTION 1

BASIC PROVISIONS

THE SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through the Central Valley Flood Protection Board of the State of California Post Office Box 942836, Sacramento, California 94236-0001, hereinafter called STATE, for consideration specified in this Lease, does hereby lease, demise and let to:

Schreiner Farms, Inc.
Cleo Schreiner
5 Monterey Circle
Woodland, California 95695

hereinafter referred to as LESSEE, those certain lands included in Section 4, hereinafter referred to as Premises, subject to the provisions, reservations, terms, covenants and conditions of this Lease.

- SIZE AND LOCATION:** Approximately 143.5 acres located along the east and west lines of Reclamation Road and the north line of the Tisdale Bypass. Sutter County Assessor's Parcel Nos. 21-280-007, 21-280-003, and 21-280-010.
- LAND USE OR PURPOSE:** Agriculture
- IMPROVEMENTS:** None
- TERM:** Three (3) years starting at the beginning of the crop year of 2009 and ending at the end of the crop year of 2011, with two (2) three-year options to renew. Lessee shall give written notification to Lessor 60 days before the end of the lease that Lessee is exercising its option to renew.
- CONSIDERATION:** \$200 (two hundred dollars) per acre in two payments each calendar year. The first payment shall be made on or before 5:00 PM, May 1, of each lease year, in the amount of \$5,740.00 for the term of the lease*. The balance of \$22,960 shall be due on or before 5:00 PM, December 1 of each lease year for the term of the lease. At the end of the original lease and at the end of each renewal option thereafter, lease consideration shall be adjusted in accordance with a Department of Water Resources staff appraisal. *Special Provision 6 applies to the first lease installment payment.
- LIABILITY INSURANCE:** \$1,000,000 combined single limit. (See Standard Provisions.)

SECTION 2

SPECIAL PROVISIONS

This Lease may include Special Provisions. In the event that any terms of the Standard Provisions and the Special Provisions are inconsistent, the Special Provisions shall prevail.

1. The Tenant shall farm, cultivate, maintain, and operate the property consistent with the best agricultural practices employed by the farming industry in the area where the property is located.
2. The Tenant shall also maintain the property in compliance with all federal, state and other governmental laws, regulations, and directives.
3. As soon as possible after harvest, the Tenant shall disk all fields two ways.
4. The demised PREMISES are subject to flood menace. LESSEE had this risk in mind when the LESSEE executed this Lease, and the LESSEE shall have no claim at law or in equity against the STATE for any loss or injury occasioned by fire, floods, or overflow waters, the breaking of levees or otherwise. The STATE shall be under no obligation to avoid these risks or to construct any reclamation works or to repair any damage caused thereby, or otherwise.
5. The parties to the Lease declare that an important objective is to enable each party to conduct its own land use objectives without the interference of the other party. To this end, but not limited to this action, the LESSEE agrees to restrict the aerial application of herbicides and pesticides to its land so as not to contaminate adjacent State-owned lands in recognition of the value to the STATE of the foliage, brush and trees growing thereon. LESSEE further agrees to restrict any ground application of herbicides and pesticides so that spray residue is not detectable any more than fifty (50) feet of the southerly lease area boundary line shown on Exhibit A.
6. In January 2009, the Schreiner Farms paid the Annual Maintenance Assessment Fee to the Sutter Mutual Water Company for the entire parcel area, which included the area of the spoil pile and access road that are not available for this agricultural lease. In consideration of this, \$1,898.25 paid by Schreiner Farms on behalf of the Sacramento San Joaquin Drainage District is to be deducted from the first lease payment installment of 2009. Therefore, the total lease payment for the first installment of lease No. 09-02 for 2009 is: \$3,841.75.
7. The subject leased real property was acquired by the Sacramento and San Joaquin Drainage District for spoil purposes. Lessee acknowledges that during the term of the lease, it may be necessary for the STATE to utilize additional leased property for spoil purposes. As such, this may result in less area available for leasing purposes. In the event of such a need, the reduced lease area and the corresponding consideration amount will be adjusted accordingly to reflect the lease area that would be available.

SECTION 3 - STANDARD PROVISIONS

1. **ACREAGE APPROXIMATE.** LESSEE has visited and inspected the Premises and it is agreed that the acreage stated or shown in exhibits is only approximate and the STATE does not hereby warrant or guarantee the actual acreage included hereunder.
2. **USE OF PREMISES.** The use of Premises is to be strictly construed and therefore excludes the existence of any structures, mobile homes or trailers, incidental to agricultural purposes which are used for business, residential, or other related purposes incidental to the growing of crops, unless authorized in Section 1 Basic Provisions. No hunting or discharge of firearms are permitted on the Premises, unless authorized in Section 2, Special Provisions. Double cropping or grazing of land will require the prior written consent of the STATE. LESSEE'S use of the Premises shall be continuous from commencement of the Lease until its expiration or termination.
3. **CROPS AND LEASE TERM.** All crops must be harvested by the end of the Lease term. Lessee waives the provisions of Section 1932 and 1933 (4) of the Civil Code of California. Multiple year crops which produce beyond the term of this Lease, are planted at the sole risk and responsibility of LESSEE and such planting does not convey any right of LESSEE or responsibility of STATE to extension of this Lease beyond the Lease expiration or termination date or any right to compensation for any multiple year crops which produce beyond the term of the Lease or after Lease termination. STATE shall not be held accountable to LESSEE for any crops harvested by STATE or third parties beyond the term of this Lease or the termination of the Lease.
4. **PAYMENT OF RENT.** Rental payment shall be submitted to STATE addressed as follows:

California Department of Water Resources
ATTENTION: Cashier, Room 841
Post Office Box 942836
Sacramento, California 94236-0001

Such payments must be identified with the Lease Number. If rent is not paid when due, STATE may take action including terminating the Lease.
5. **UTILITIES.** LESSEE agrees to pay said rent as herein provided and to pay all water, electric, gas and other utility charges or any other charges payable in connection with LESSEE'S use of Premises during the term of this Lease. No utilities including electricity or gas will be provided by STATE and STATE assumes no liability for the existence or nonexistence of utilities.
6. **WATER AVAILABILITY.** It is understood and agreed between the parties hereto STATE does not guarantee the availability, quality or quantity of water on the Premises.
7. **TAXES.** LESSEE agrees to pay all lawful taxes, assessments, or charges, which at any time may be levied upon interest in this agreement. It is understood that this Lease may create a possessory interest subject to property taxation and LESSEE may be subject to the payment of property taxes levied on such interest.
8. **COMPLIANCE WITH LAW.** LESSEE shall, at his sole cost and expense, comply with all of the laws and requirements of all municipal, state, and federal authorities now in force, or which may be in force pertaining to the Premises and the use of the Premises as provided in the Lease. In the event that LESSEE shall be required to submit information or written reports to any such agency on or relating to any of the foregoing, LESSEE shall concurrently provide STATE with copies thereof.
9. **RIGHT TO ENTER, STATE.** During continuance in force of this Lease, there shall be and is hereby expressly reserved to STATE and to any of its agencies, contractors, agents, employees, representatives or licensees, the right at any and all times, and any and all places, to temporarily enter upon said Premises to inspect the Premises and the operations of LESSEE or for survey or other lawful STATE purposes. The STATE and its representatives may, from time to time, conduct geologic and other exploration, and construction activities, including but not limited to construction or modification of facilities. LESSEE shall, however, be entitled to seek compensation upon proof and demand for any and all damages caused to LESSEE's interest in growing crops and LESSEE's improvements and personal property upon the Premises by the enjoyment and exercise of such reserved rights by filing a claim with the Board of Control if agreement for such compensation cannot be otherwise reached by the parties.
10. **RIGHTS OF OTHERS.** This Lease is subject to all existing easements, servitudes, licenses and rights of way for canals, ditches, levees, roads, highways, telegraph, telephone and electric power lines, railroads, pipelines and other purposes, whether recorded or not and rights of others under any existing oil, gas and mineral Lease or Leases affecting the Premises or any portion thereof, whether recorded or not. STATE further reserves the right to grant additional public utility easements as may be necessary and LESSEE hereby consents to the granting of any such easement. The public utility will be required to reimburse LESSEE for any damages caused by the construction work on the easement area.
11. **MINERAL RIGHTS.** The exclusive right to conduct seismic and other geophysical surveys and otherwise to prospect for, drill for, produce, mine, extract and remove oil and gas upon and from the Premises, the exclusive right to drill upon, to drill through and otherwise to use the Premises to produce, mine, extract and remove water from adjacent or neighboring lands, and the exclusive right to inject in, store under, and thereafter withdraw from the Premises oil and gas, whether produced from the Premises or elsewhere, together with the right to drill and operate whatever wells, construct, install, operate, maintain and remove whatever other facilities and do whatever else may be reasonably necessary on and in the Premises for the full enjoyment and exercise of the above rights, and the unrestricted right of ingress and egress on the Premises for all such purposes, may be reserved or owned by other parties.
12. **RIGHT TO ENTER UNDER MINERAL RIGHTS.** LESSEE agrees not to interfere, in any way, with the interests of any person or persons that may presently, or in the future, hold oil, gas, or other mineral interests upon or under the Premises; nor shall LESSEE, in any way, interfere with the rights of ingress and egress of said interest holders.
13. **NO WARRANTY OF TITLE OR SUITABILITY OF THE SOIL.** STATE makes no warranty of title to the Premises. STATE does not warrant suitability of the soil for growing authorized crops, nor the absence of deleterious organisms or chemicals in the soil.
14. **CROPPING PROGRAMS AND AGREEMENTS.** LESSEE shall not, without prior written consent of STATE, enter into any soil conservation, federal farm program or cropping agreement affecting the Premises, irrespective of whether such agreement shall be proposed or submitted under or in compliance with any Federal, STATE, county or municipal law, or by private arrangement. LESSEE shall, upon written request of STATE, enter into and execute any and all such

soil conservation, Federal farm program or cropping agreements affecting the Premises. If any Federal or STATE programs regulating crop acreage or crop production are imposed during the term of this Lease, the acreage or production rights resulting from said program, as applied to the Premises, shall remain with and inure to the benefit of the STATE.

15. **FARMING PROGRAM.** LESSEE shall install any necessary field ditches, pipelines and booster pumps, perform releveling operations necessary to comply with good husbandry and generally recommended farming practices, apply such soil conditioners and fertilizers as may be desirable subject to restrictions contained in this Lease, and do whatever else is necessary to place the Premises in condition for raising crops, all in accordance with specifications approved by STATE. LESSEE shall diligently farm the Premises in a businesslike manner in accordance with generally recommended farming practices in the region. Fields shall be disced a minimum of one time after harvest of annual crops and after final harvest of multi-year crops. Upon commencement of the Lease or on or before January 1 of the first crop year of the Lease, whichever is later, and on or before January 1 of each subsequent year of the Lease term, LESSEE shall submit to STATE a plan of operations for the then current year which shall show the crop plan and date for planting each crop. If Lessee fails to submit a plan satisfactory to STATE by the date specified, STATE may terminate this Lease immediately by written notice to LESSEE. All portions of the Premises shall be used for agricultural production or cultivated during the term of the Lease.

16. **CONDITION OF PREMISES.** By entry hereunder, LESSEE accepts the Premises as being in good order, condition and repair, and agrees that on the last day of the term, or upon sooner termination of this Lease, to surrender to STATE the Premises with any appurtenances or improvements in the same condition as when received, reasonable use and wear thereof and damage by act of God, excepted.

17. **MAINTENANCE.** LESSEE shall maintain the Premises, including all irrigation and drainage ditches, in a weed free condition and in good repair, and otherwise operate the Premises during the term hereof in a businesslike manner in accordance with generally recommended farming practices in the region. LESSEE shall not cut or allow any other person to cut or carry off from the Premises any tree or wood; nor burn any stubble, grass, weeds, or any substance growing upon said land, or any part thereof, without the prior written consent of STATE; and LESSEE expressly covenants and agrees to hold STATE free and harmless from all damage caused by fire resulting from the use or operation of said lands by LESSEE or any of his servants or employees.

Burning operations on the Premises may be restricted or prohibited by Special Conditions herein. Allowable burning operations will be carried on pursuant to local ordinances and at LESSEE'S own cost and expense.

LESSEE agrees that in no event shall STATE be required to perform any maintenance on or make improvements, repairs or alterations to the Premises of any nature whatsoever, or to pay or reimburse LESSEE for any part of the cost thereof, and LESSEE hereby waives the provisions of Sections 1941 and 1942 of the Civil Code of California. LESSEE agrees to keep the Premises in good order and condition at LESSEE's sole cost and expense.

18. **MAINTENANCE - FACILITIES.** LESSEE agrees at LESSEE's sole cost and expense to repair and maintain in good operating condition all buildings and other structures, fences, ditches, checks, canals, culverts, irrigation levees, water wells, water pumps, pipelines, pumping plants and other irrigation facilities and other

improvements on the Premises or constructed upon the Premises by LESSEE under ALTERATION OF PREMISES clause (except LESSEE's removable improvements), whether or not damage was done by LESSEE or any of their agents or employees.

19. **PROTECTION AGAINST NUISANCE AND DAMAGE.** No removal of soil or dumping or refuse by LESSEE is permitted in any area of the Premises, and LESSEE shall not commit or suffer to be committed any waste or nuisance upon the Premises including storage of abandoned and inoperable motorized equipment or vehicles; and LESSEE further agrees that they shall at all times exercise due diligence in the protection of the Premises against damage or destruction by fire or other causes.

20. **RESTRICTED ACTIVITIES.** The following activities are restricted on the Premises:

- As used in this Lease, the term "hazardous substance" means any product, substance, chemical material or waste, that due to its nature or quantity is potentially injurious to public health or safety, the environment, or the Premises, or is regulated or monitored under Federal or State law, including but not limited to RCRA (42 USC §§6901 et seq.), CERCLA (42 USC 9601 et seq.), SARA (42 USC §§11001 et seq.), Hazardous Waste Control Law (Health and Safety Code §§25100 et seq.), and Proposition 65 (Health and Safety Code §§25249.5 et seq.). Hazardous substances includes hydrocarbons, petroleum, and gasoline. The generation, use, storage, and transportation of hazardous substances requiring a permit from, registration with, or notice to a governmental entity is prohibited. However, LESSEE may, without STATE's consent, use any customary materials required in LESSEE's normal course of business that does not require a permit, registration, or notice provided such use does not expose the premises or nearby persons or properties to any meaningful risk of contamination or injury and is in compliance with applicable laws. LESSEE agrees to indemnify, hold and save STATE, its agencies, employees, agents, and contractors free, clear, and harmless of, from, and against any and all claims, demands or liabilities of whatever kind, character or nature which in any manner arise out or result from any use or application of any hazardous substance.
- The installation or use of any above ground or below ground storage tanks is prohibited.
- The accumulation, storage, treatment, or disposal of any waste material is prohibited; excepting only temporary storage, not to exceed 14 days, or non-hazardous solid refuse produced from activities on the Premises for pick up by a municipal or licensed commercial refuse service, and lawful use of sanitary sewers (if any) for domestic sewage.
- The manufacturing, maintenance of equipment or vehicles, or use, installation or construction of vessels, tanks (stationary or mobile), dikes, sumps, or ponds, or any activity for which a license or permit is required from any government agency for (1) transportation, storage, treatment, or disposal of any waste, and (2) discharge of any pollutant including but not limited to discharge to air, water, or a sewer system is prohibited.
- Any spill or release of a hazardous substance in the air, soil, surface water, or groundwater will be immediately reported to the STATE as well as to appropriate government agencies, and shall be promptly and fully cleaned up and the Premises (including soils and surface water and groundwater) restored to its original condition.

21. **CHEMICALS.** No poison, herbicide or pesticide other than those approved by the United States Department of Agriculture and by the California Department of Agriculture shall be applied to the Premises or crops growing thereon. STATE reserves the right to prohibit the application of a listed pesticide, fertilizer, or soil amendment to STATE property, but not without recommending an effective and suitable replacement. The use of pesticides should be minimized. Any and all of such materials and substances shall be applied in strict compliance with and only at the time or times set forth in the instructions contained on the label or furnished by the manufacturer thereof. In addition, the use of pesticide aldicarb (also known as Temik) is prohibited.

No poison, herbicide, pesticide, fertilizer or other chemical shall be placed in any well. No well shall be operated for any use unless equipped with a suitable check valve in the discharge pipe or a flap valve in the stand pipe that is approved by STATE and installed and maintained by LESSEE, at LESSEE's expense. No experimental poisons, herbicides, pesticides, fertilizers or other foreign chemical or substance shall be applied to the Premises, or the crops growing thereon, without the prior written consent of STATE. No soil sterilant or semi-sterilant shall be applied to the Premises without the prior written consent of STATE.

LESSEE agrees to keep true and correct records of the time, place and all other information and data pertaining to the quantity, kind, use and method of application of any poison, herbicide, pesticide, fertilizer or other foreign chemical or substance and to furnish to STATE true and correct copies thereof upon demand. All poisons, herbicides, pesticides, fertilizers or other foreign chemicals, or substances which LESSEE may apply to the Premises or crops growing thereon, shall be used and applied at LESSEE's sole cost and risk. LESSEE agrees to indemnify, hold and save STATE, its agencies, employees, agents, and contractors free, clear, and harmless of, from and against any and all claims, demands or liabilities of whatever kind, character or nature which in any manner arise out of or result from any use or application of any of the aforesaid substances. LESSEE shall provide STATE a copy of the County Pesticide Permit.

22. **PERFORMANCE.** In the event of the failure, neglect, or refusal of LESSEE to do or perform work, or any part thereof, or any act or thing in this Lease provided to be done and performed by LESSEE, STATE shall, at its option, have the right to do and perform the same, and LESSEE hereby covenants and agrees to pay STATE the cost thereof on demand.

23. **LABOR AND MATERIALS.** LESSEE shall, at LESSEE's own risk and expense, provide and promptly pay for all labor, farm implements, tools, seed, fuel, electrical energy and demand charges and other materials and services of whatever kind or nature that may be used for the planting, cultivating, irrigation, production and harvesting of crops on the Premises and the performance of LESSEE's other obligations under this Lease, and STATE shall not be liable for any part thereof. LESSEE shall keep the Premises free from any liens arising out of any work performed, material furnished, or obligations incurred by LESSEE.

24. **ALTERATION OF PREMISES.** No alteration to the Premises or construction of facilities or improvements thereon shall be allowed without prior written approval by the STATE except installations required and necessary to comply with generally recommended farming practices.

25. **OWNERSHIP OF FACILITIES.** Upon expiration of this Lease, or sooner termination, any and all irrigation facilities upon the Premises, including but not limited to

any wells, pumps, electric motors, pipelines, valves and water gates, but excepting portable sprinkler irrigation facilities and tail water pumps provided by LESSEE, shall become the property of STATE free of cost to STATE. Ownership and removal of facilities or improvements placed on Premises with prior written approval of STATE as provided in clause No. 24 shall be as stated in the written approval. All other facilities or improvements placed on the Premises by LESSEE which are required to comply with generally recommended farming practices shall be the property of LESSEE so long as this Lease is in effect and shall be removed by LESSEE upon termination of this Lease.

26. **PERSONAL PROPERTY.** All personal property, tools, or equipment taken onto, stored or placed on the Premises by LESSEE shall remain the property of LESSEE. Such personal property shall be removed by LESSEE, at his sole risk and expense, upon the expiration or sooner termination of this Lease. The STATE does not accept any responsibility for any damage, including, but not limited to damages caused by fire, flooding and theft, to any personal property, including any equipment, tools or machinery stored on the lease Premises.

27. **INSURANCE.** LESSEE shall furnish to the STATE a Certificate of Insurance, at the time the Lease is signed, stating that there is liability insurance presently in effect for LESSEE with bodily injury and property damage limits of not less than \$1,000,000 per occurrence. The Certificate of Insurance will provide:

- That the insurer will not cancel the insured's coverage without 30 days' prior written notice to the STATE.
- The STATE, its officers, agents, employees and servants are included as additional insureds, but only insofar as the operations under this Lease are concerned.
- That the STATE will not be responsible for any premiums or assessments on the policy.
- That the Premises included in this Lease (referenced by Lease Number) is covered by the policy.

LESSEE agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this Lease. In the event said insurance coverage expires at any time or times during the term of this Lease, LESSEE agrees to provide at least thirty (30) days prior to said expiration date a new Certificate of Insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Lease, or for a period of not less than one (1) year.

New Certificates of Insurance are subject to the approval of State Department of General Services. In the event LESSEE fails to keep in effect at all times insurance coverage as herein provided, STATE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event. The STATE will not be liable for any debts or claims that arise from the operation of this Lease.

28. **INDEMNIFICATION.** This Lease is made upon the express condition that the State of California is to be free from all liability and claims for damages by reason of any injury to any person or persons, including LESSEE, or property of any kind whatsoever and to whomsoever, including LESSEE, from any cause or causes whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease or any occupancy hereunder, except those arising out of the sole negligence of the STATE. LESSEE agrees to defend, indemnify and

save harmless the State of California from all liability, loss, cost or obligation on account of or arising out of any such injury or loss, however occurring. LESSEE further agrees to provide necessary workers compensation insurance for all employees of LESSEE upon said Premises at LESSEE's own cost and expense.

29. **DEBTS AND CLAIMS - STATE NOT LIABLE.** The STATE shall not be liable for any debts or claims that arise from the operation of this Lease.
30. **STATE NOT LIABLE FOR WATER DAMAGE.** Neither STATE nor any of its employees, agents, representative or assigns shall be liable for any injury or damage sustained by LESSEE, or by others acting under him, on account of the seepage of water into or overflow of water upon the Premises from neighboring lands, any canal, ditch, river stream or other watercourse or reservoir, whether above or underground, or from any other source, whether caused whole or in part by irrigation, by the construction, maintenance, operation or failure of canals, dams, embankments, levees, spillways or other irrigation, water storage or flood control works, or in any other manner. This shall not preclude LESSEE from filing a claim with the State Board of Control.
31. **NO SUBLETTING.** LESSEE shall not, without the prior written consent of STATE, sublet or permit grazing of the Premises in whole or in part, nor assign this Lease or any interest herein.
32. **NOTICES.** All notices herein provided to be given or which may be given by either party to the other shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified, postage prepaid and addressed to such party at its address set forth in Section 1 of this Lease. The address to which notices may be mailed as aforesaid to either party, may be changed by written notice given by subject party to the other, as hereinbefore provided; but nothing herein contained shall preclude the giving of any such notice by personal service.
33. **INDEPENDENT CAPACITY.** LESSEE and any and all agents and employees of LESSEE shall act in an independent capacity and not as officers or employees of STATE. Nothing herein contained shall be construed as constituting the parties herein as partners.
34. **NONDISCRIMINATION.** LESSEE agrees that they will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, age, or physical handicap. LESSEE agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, national origin, sex, age or physical handicap. (See Government Code Sections 12920-12994 for further details.)
35. **TERMINATION.** STATE may terminate this Lease in whole or in part at any time during the term hereof by giving LESSEE notice in writing at least 90 days prior to the date when any such termination shall become effective. If, prior to the time for harvesting, STATE should terminate this Lease, STATE agrees to reimburse LESSEE for all reasonable and/or actual costs expended by LESSEE pursuant to this Lease in the production of that portion of the crop affected by any such termination. If termination is made due to default, STATE shall not be liable for any reimbursements to LESSEE. STATE shall not be liable for loss of anticipated profits. LESSEE agrees to maintain an accurate record of all expenditures for labor and materials made in connection with his cultivation of, or capital improvements to, the Premises in

order that STATE may verify the amount of reimbursement to be made to LESSEE. LESSEE shall support all such expenditures with appropriate, receipted, written vouchers.

36. **DEFAULT AND REMEDIES.** LESSEE agrees that he will keep, perform, and observe all the covenants, conditions and provisions of this Lease on his part. In addition to any other rights and remedies available to STATE should LESSEE fail to keep, perform, and observe any covenant, condition or provision of this Lease and such failure shall continue for a period of three (3) days, after thirty (30) days' written notice thereof given by STATE to LESSEE, STATE may at its option by further written notice to LESSEE do any one or more of the following:
- Re-enter the Premises, remove all persons and property, and repossess and enjoy such Premises;
 - Terminate this Lease and LESSEE's right of possession of the Premises. Such termination shall be effective upon STATE's giving written notice and upon receipt of such notice LESSEE shall immediately surrender possession of the Premises to STATE;
 - Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as it becomes due without terminating LESSEE's right of possession regardless of whether LESSEE shall have abandoned the Premises; and/or
 - Exercise any other right or remedy which STATE may have at law or equity.

If STATE incurs any expense, including reasonable attorneys' fees, in connection with any actions or proceeding instituted by reason of any default or alleged default of LESSEE, and should STATE prevail in such action or proceeding, STATE shall be entitled to recover said reasonable expenses from LESSEE. STATE shall be deemed the prevailing party if (a) judgment is entered in favor of STATE or (b) prior to trial or judgment, LESSEE pays all or any portion of the rent and charges claimed by STATE, eliminates the condition(s), ceases the act, or otherwise cures the omission(s) claimed by STATE to constitute a default by LESSEE hereunder.

37. **SUCCESSORS TO LEASE.** The terms of this Lease and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties hereto.

State of California
The California Natural Resources Agency
CENTRAL VALLEY FLOOD PROTECTION BOARD

LEASE NO. 09-02

This Lease shall become effective only when fully approved and executed on behalf of the State of California and a duly executed copy has been delivered to LESSEE. The submission of this Lease by STATE, its agent or representative for examination by LESSEE does not constitute an option or offer to lease the Premises upon the terms and conditions contained herein, or a reservation of the Premises in favor of LESSEE. LESSEE'S submission of an executed copy of this Lease to STATE shall constitute an offer to STATE to lease the Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

LESSEE:

SACRAMENTO AND SAN JOAQUIN DRAINAGE
DISTRICT, acting by and through the Central Valley
Flood Protection Board of the State of California.

Cleo Schreiner
Schreiner Farms, Inc.
5 Monterey Circle
Woodland, California 95695

By: _____
President

By: _____
Secretary

Date: _____

Date: _____

Approved as to legal form and sufficiency

By: _____
Counsel for the Central Valley Flood Protection Board

Date: _____